

IN THE MATTER OF:
STEVEN R LOTZ
7279 BRIDGEWOOD DRIVE
BALTIMORE, MD 21224

RE: DENIAL OF RESERVED
HANDICAPPED PARKING SPACE

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No.: CBA-20-019

* * * * *

OPINION

This case comes to the Board of Appeals (the "Board") as the result of the denial of an application for reserved handicapped parking space at 7279 Bridgewood Drive, Baltimore, Maryland 21224 (the "Property"), as set forth by letter dated December 23, 2019 by Michael F. Filsinger, Chief of the Baltimore County Division of Traffic Engineering to Mr. Earl Beville, Assistant Manager, Investigative and Internal Affairs, Motor Vehicle Administration (MVA). A copy of that letter was sent to Applicant/Appellant Steven R. Lotz ("Mr. Lotz") along with a copy of the County Policy with respect to handicapped parking spaces.

A public hearing in front of the Board was scheduled on February 25, 2020, at 10:30 a.m. Baltimore County (the "County") was represented by Howard Daue, a Traffic Inspector for the Baltimore County Division of Traffic Engineering. Mr. Lotz appeared *pro se*.

Mr. Daue testified that his office received a MVA Application for Personal Residential Permit for Reserved Parking Space ("Application") for Mr. Lotz (dated November 1, 2019). (The MVA Application and November 12, 2019 transmittal letter is County Exhibit #1). Following receipt of the Application, Mr. Daue visited and inspected the Property on December 10, 2019 and took photographs of the front and rear of the Property. (See County's Exhibits #2A-2C).

The Property is a middle-of-group row house. County Exhibit 2A shows the front of the Property with approximately three steps up from the street level to the front door of the Property. County Exhibit 2B shows the rear of the Property, which is enclosed by a large wooden fence and gate. County Exhibit 2C shows the interior of the rear yard that contains an aboveground swimming pool and a shed that is partially built atop a former parking-pad.

Mr. Daue, because of the State's verification of physical disability, did not contest Mr. Lotz's disability. However, based upon Section 11.16.03, Subtitle 16 of the Code of Maryland Regulations, (See County Exhibit #3) Section 21-1005 of the Maryland Transportation Article¹ (Reservation of Parking Space for Person Confined to Wheelchair) (See County Exhibit #4) and Baltimore County Policy on Reserved Parking Spaces for Persons with Physical Disabilities (the "BC Policy") (See County Exhibit #5), the County concluded that Mr. Lotz did not meet the requirements to be issued a reserved parking space for a person with physical disabilities. Mr. Daue submitted into evidence the aforementioned December 23, 2019 letter from Mr. Filsinger, on behalf of the County, to Mr. Beville, denying Mr. Lotz's request for a reserved handicap parking space. (See County Exhibit #6).

The BC Policy (County Exhibit #5) identifies the factors for determining the approval or denial of an application for reserved on-street parking spaces for persons with physical disabilities. Section 3, entitled "Parking Space," and more particularly, as is relevant here, Sections 3(B) and 3(C) of the BC Policy states the following:

(B) A reserved on-street parking space will not be authorized for any applicant whose property has a self-contained off-street parking area or where off-street parking is provided to the applicant by private sources. This item shall apply to all properties regardless of the time they were built or subdivided. (The property shall be considered to have an available off-street parking area if the aforementioned area

¹ Section 21-1005(l) of the Maryland Transportation Article states: "In Baltimore County, the establishment of a personal residential parking space shall be subject to approval of the Baltimore County Department of Traffic Engineering, in accordance with the charter and public laws of Baltimore County."

existed at the time that the applicant purchased or moved into the property or if it was made available at any subsequent time. If a parking pad, driveway, concrete ribbons, garage, soil stabilized area, etc., was removed or made inaccessible at any time after the applicant purchased or moved into the property, the parking area shall still be considered to exist for purposes of this policy.

(C) The property shall be evaluated on whether the off-street parking area exists, NOT on whether an off-street parking area is available for use. In addition, the placement of any non-permanent objects on top of a parking area (e.g., boats, campers, trailers, above-ground pools, sheds, etc.) will not in any way alter the recognition that the parking area does in fact exist.

When describing the Property, including reference to the photographs, Mr. Daue testified that the rear of the property originally had a self-contained off-street parking area that has now been partially covered by a shed, and as such, Mr. Daue testified that the application was denied pursuant to BC Policy Section 3(B), with 3(C) having applicability as well.

Mr. Lotz testified that the shed pictured in County Exhibit C was added after he purchased the home and that he expanded the concrete pad area so that the shed could sit on a concrete base. He testified that this was done at the urging of the community association. Mr. Lotz also testified that he can rarely find parking near the front of his house and that his current vehicle (purchased before the onset of his disability) is too large to be parked in the rear of his home even if the shed did not exist.

DECISION

In order to reverse the decision of the Baltimore County Division of Traffic Engineering with respect to handicapped parking spaces, Section 8 of the BC Policy, entitled "Appeal of Denial of Reserved Parking Space," requires that the Board find that the Applicant meets all of the conditions set forth therein.

The conditions are as follows:

(A) The applicant and/or their household has taken all reasonable measures to make the off-street parking area usable and available to the disabled applicant.

(B) The disability of the applicant is of such a severe degree that an extreme hardship would exist if the applicant were to use the available off-street parking.

(C) The approval of a reserved on-street space is determined to be one of medical necessity and not one of mere convenience for the applicant.

(D) The hardships placed on the applicant's neighbors by reserving an exclusive on-street space for the applicant is outweighed by the hardship that would be placed on the applicant if the space were not approved.

Based on the evidentiary record in front of the Board, the decision of the Baltimore County Division of Traffic Engineering shall be upheld and that the application for the reserved handicapped parking space should be denied.

As reflected by Mr. Daue's testimony and as illustrated in County Exhibits 2B and 2C, the rear of Mr. Lotz's Property contains a parking pad, though now covered by a shed. As referenced above, pursuant to County Policy 3(B), a reserved on-street parking space will not be authorized for any applicant whose property has a self-contained off-street parking area. (See County Exhibit # 5). Mr. Lotz contends that his rear yard no longer qualifies as off-street parking due to the existence of his shed and that part of what is being considered a concrete parking pad is actually concrete he added for the shed's base.

Under Section 8(A), there must be evidence that Mr. Lotz or his household has taken "all reasonable measures to make the off-street parking area usable and available" to Mr. Lotz. Despite the existence of Mr. Lotz's shed, the record reveals that the rear-parking pad is usable and available if the shed were to be removed.

Similarly, though it is undisputed Mr. Lotz has a disability, there must be evidence that the disability is one of a severe degree that using the existing parking pad will constitute an extreme

extreme hardship. In this case, no such evidence has been submitted. The Board does not consider the existence of Mr. Lotz's shed to meet the standard of extreme hardship. Therefore, the Board concludes that the evidence does not meet the criteria under Section 8(B) or Section 8(C).

Based on the foregoing, the evidentiary record does not permit the Board to justify overturning the County's denial of the issuance of a reserved parking space for Mr. Lotz.

ORDER

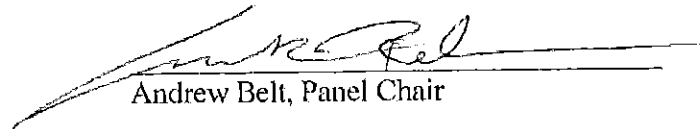
THEREFORE, IT IS THIS 27th day of April, 2020, by the Board of Appeals of Baltimore County,

ORDERED that the decision of the Division of Traffic Engineering dated December 23, 2019 in Case No.: CBA-20-019 be and the same is hereby **AFFIRMED**; and it is further,

ORDERED that the application of Steven Lotz for a reserved handicapped parking space at 7279 Bridgewood Drive, Baltimore, MD 21224, be and the same is hereby **DENIED**.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

**BOARD OF APPEALS
OF BALTIMORE COUNTY**


Andrew Belt, Panel Chair

see attached
Maureen Murphy

Kendra Randall Jolivet /rc
Kendra Randall Jolivet

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**BOARD OF APPEALS
OF BALTIMORE COUNTY**

see attached
Andrew Belt, Panel Chair

[Signature]
Maureen Murphy

see attached
Kendra Randall Jolivet



Board of Appeals of Baltimore County

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April 27, 2020

Steven R. Lotz
7279 Bridgewood Drive
Baltimore, Maryland 21224

RE: *In the Matter of: Steven R. Lotz*
Case No.: CBA-20-019

Dear Mr. Lotz:

Enclosed please find a copy of the final Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT.** Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

A handwritten signature in cursive script, reading "Sunny Cannington Han".

Krysundra "Sunny" Cannington
Administrator

KLC/taz
Enclosure

- c. Earl Beville, Assistant Manager/Investigative & Security Division/Motor Vehicle Administration
Michael F. Filsinger, Chief/Division of Traffic Engineering
Steven A. Walsh, P.E., Director/DPW
Nancy C. West, Assistant County Attorney/Office of Law
James R. Benjamin, Jr., County Attorney/Office of Law